

HOUSE BILL No. 1527

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-3-1; IC 6-1.1-17; IC 36-4-7-6; IC 36-5-3-3.

Synopsis: Publication of proposed budgets. Provides that a political subdivision shall publish its budgets and related notices both in a newspaper and electronically on the computer gateway.

Effective: January 1, 2015 (retroactive).

Borders

January 20, 2015, read first time and referred to Committee on Local Government.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1527

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-3-1-2, AS AMENDED BY P.L.183-2014,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2015 (RETROACTIVE)]: Sec. 2. (a) This section
4 applies only when notice of an event is required to be given by
5 publication in accordance with this chapter.
6 (b) If the event is a public hearing or meeting concerning any matter
7 not specifically mentioned in subsection (c), (d), (e), (f), (g), or (h)
8 notice shall be published one (1) time, at least ten (10) days before the
9 date of the hearing or meeting.
10 (c) If the event is an election, notice shall be published one (1) time,
11 at least ten (10) days before the date of the election.
12 (d) If the event is a sale of bonds, notes, or warrants, notice shall be
13 published two (2) times, at least one (1) week apart, with:
14 (1) the first publication made at least fifteen (15) days before the
15 date of the sale; and



(2) the second publication made at least three (3) days before the date of the sale.

(e) If the event is the receiving of bids, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least seven (7) days before the date the bids will be received.

(f) If the event is the establishment of a cumulative or sinking fund, notice of the proposal and of the public hearing that is required to be held by the political subdivision shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the date of the hearing.

(g) If the event is the submission of a proposal adopted by a political subdivision for a cumulative or sinking fund for the approval of the department of local government finance, the notice of the submission shall be published one (1) time. The political subdivision shall publish the notice when directed to do so by the department of local government finance.

(h) If the event is the required publication of an ordinance, notice of the passage of the ordinance shall be published one (1) time within thirty (30) days after the passage of the ordinance.

(i) If the event is one about which notice is required to be published after the event, notice shall be published one (1) time within thirty (30) days after the date of the event.

(j) If the event is anything else, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the event.

(k) If any officer charged with the duty of publishing any notice required by law is unable to procure advertisement:

(1) at the price fixed by law;

(2) because the newspaper refuses to publish the advertisement;

or

(3) because the newspaper refuses to post the advertisement on the newspaper's Internet web site (if required under section 1.5 of this chapter);

it is sufficient for the officer to post printed notices in three (3) prominent places in the political subdivision, instead of publication of the notice in newspapers and on an Internet web site (if required under section 1.5 of this chapter).

~~(l) If a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and the published notice contains an error due to the fault of a newspaper, the notice as presented for publication is a valid notice under this chapter. This subsection expires January 1, 2015.~~



(m) Notwithstanding subsection (j); if a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and if the notice is not published at least ten (10) days before the date fixed for the public hearing on the budget estimate due to the fault of a newspaper; the notice is a valid notice under this chapter if it is published one (1) time at least three (3) days before the hearing. This subsection expires January 1, 2015.

(l) If a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and the published notice contains an error due to the fault of a newspaper, the notice as presented for publication is a valid notice under this chapter.

(m) Notwithstanding subsection (j), if a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and if the notice is not published at least ten (10) days before the date fixed for the public hearing on the budget estimates due to the fault of a newspaper, the notice is a valid notice under this chapter if it is published one (1) time at least three (3) days before the hearing.

SECTION 2. IC 5-3-1-2.3, AS AMENDED BY P.L.183-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 2.3. (a) A notice published in accordance with this chapter or any other Indiana statute is valid even though the notice contains errors or omissions, as long as:

- (1) a reasonable person would not be misled by the error or omission; and
- (2) the notice is in substantial compliance with the time and publication requirements applicable under this chapter or any other Indiana statute under which the notice is published.

(b) This subsection applies if:

- (1) a county auditor publishes a notice concerning a tax rate, tax levy, or budget of a political subdivision in the county;
- (2) the notice contains an error or omission that causes the notice to inaccurately reflect the tax rate, tax levy, or budget actually proposed or fixed by the political subdivision; and
- (3) the county auditor is responsible for the error or omission described in subdivision (2).

Notwithstanding any other law, the department of local government finance may correct an error or omission described in subdivision (2) at any time. If an error or omission described in subdivision (2) occurs, the county auditor must publish, at the county's expense, a notice containing the correct tax rate, tax levy, or budget as proposed or fixed by the political subdivision. This subsection expires January 1, 2015.



(b) This subsection applies if:

- (1) a county auditor publishes a notice concerning a tax rate, tax levy, or budget of a political subdivision in the county;**
- (2) the notice contains an error or omission that causes the notice to inaccurately reflect the tax rate, tax levy, or budget actually proposed or fixed by the political subdivision; and**
- (3) the county auditor is responsible for the error or omission described in subdivision (2).**

Notwithstanding any other law, the department of local government finance may correct an error or omission described in subdivision (2) at any time. If an error or omission described in subdivision (2) occurs, the county auditor shall publish, at the county's expense, a notice containing the correct tax rate, tax levy, or budget as proposed or fixed by the political subdivision.

SECTION 3. IC 6-1.1-17-3, AS AMENDED BY P.L.183-2014, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision or appropriate fiscal body, if the political subdivision is subject to section 20 of this chapter, shall ~~(before January 1, 2015)~~ at least ten (10) days before the public hearing, give notice to taxpayers of:

- (1) the estimated budget;
- (2) the estimated maximum permissible levy;
- (3) the current and proposed tax levies of each fund; and
- (4) the amounts of excessive levy appeals to be requested.

The political subdivision or appropriate fiscal body shall also state the time and place at which the political subdivision or appropriate fiscal body will hold a public hearing on these items. The political subdivision or appropriate fiscal body shall ~~(before January 1, 2015)~~ publish the notice twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing. The first publication must be before September 14, and the second publication must be before September 21 of the year. The political subdivision shall pay for the publishing of the notice. The political subdivision shall submit this information to the department's computer gateway before September 14 of each year and at least ten (10) days before the public hearing required by this subsection in the manner prescribed by the department. The department shall make this information available to taxpayers, at least ten (10) days before the



1 public hearing, through its computer gateway and provide a telephone
 2 number through which taxpayers may request mailed copies of a
 3 political subdivision's information under this subsection. The
 4 department's computer gateway must allow a taxpayer to search for the
 5 information under this subsection by the taxpayer's address. The
 6 department shall review only the submission to the department's
 7 computer gateway for compliance with this section.

8 (b) ~~For taxes due and payable in 2015 and 2016,~~ Each county shall
 9 publish a notice in accordance with IC 5-3-1 in two (2) newspapers
 10 published in the county stating the Internet address at which the
 11 information under subsection (a) is available and the telephone number
 12 through which taxpayers may request copies of a political subdivision's
 13 information under subsection (a). If only one (1) newspaper is
 14 published in the county, publication in that newspaper is sufficient. The
 15 department of local government finance shall prescribe the notice.
 16 Notice under this subsection shall be published before September 14.
 17 Counties may seek reimbursement from the political subdivisions
 18 within their legal boundaries for the cost of the notice required under
 19 this subsection. The actions under this subsection shall be completed
 20 in the manner prescribed by the department.

21 (c) The board of directors of a solid waste management district
 22 established under IC 13-21 or IC 13-9.5-2 (before its repeal) may
 23 conduct the public hearing required under subsection (a):

- 24 (1) in any county of the solid waste management district; and
- 25 (2) in accordance with the annual notice of meetings published
- 26 under IC 13-21-5-2.

27 (d) The trustee of each township in the county shall estimate the
 28 amount necessary to meet the cost of township assistance in the
 29 township for the ensuing calendar year. The township board shall adopt
 30 with the township budget a tax rate sufficient to meet the estimated cost
 31 of township assistance. The taxes collected as a result of the tax rate
 32 adopted under this subsection are credited to the township assistance
 33 fund.

34 (e) A political subdivision for which any of the information under
 35 subsection (a) is not ~~(before January 1, 2015)~~ published and is not
 36 submitted to the department's computer gateway in the manner
 37 prescribed by the department shall have its most recent annual
 38 appropriations and annual tax levy continued for the ensuing budget
 39 year.

40 (f) If a political subdivision or appropriate fiscal body timely
 41 publishes ~~(before January 1, 2015)~~ and timely submits the information
 42 under subsection (a) but subsequently discovers the information



contains a typographical error, the political subdivision or appropriate fiscal body may request permission from the department to submit amended information to the department's computer gateway and ~~(before January 1, 2015)~~ to publish the amended information. However, such a request must occur not later than seven (7) days before the public hearing held under subsection (a). Acknowledgment of the correction of an error shall be posted on the department's computer gateway and communicated by the political subdivision or appropriate fiscal body to the fiscal body of the county in which the political subdivision and appropriate fiscal body are located.

SECTION 4. IC 6-1.1-17-16, AS AMENDED BY P.L.183-2014, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2015 (RETROACTIVE)]: Sec. 16. (a) Subject to the limitations and requirements prescribed in this section, the department of local government finance may revise, reduce, or increase a political subdivision's budget by fund, tax rate, or tax levy which the department reviews under section 8 or 10 of this chapter.

(b) Subject to the limitations and requirements prescribed in this section, the department of local government finance may review, revise, reduce, or increase the budget by fund, tax rate, or tax levy of any of the political subdivisions whose tax rates compose the aggregate tax rate within a political subdivision whose budget, tax rate, or tax levy is the subject of an appeal initiated under this chapter.

(c) Except as provided in section 16.1 of this chapter, the department of local government finance is not required to hold a public hearing before the department of local government finance reviews, revises, reduces, or increases a political subdivision's budget by fund, tax rate, or tax levy under this section.

(d) Except as provided in subsection (i), IC 20-46, or IC 6-1.1-18.5, the department of local government finance may not increase a political subdivision's budget by fund, tax rate, or tax levy to an amount which exceeds the amount originally fixed by the political subdivision. However, if the department of local government finance determines that IC 5-3-1-2.3(b) ~~(before its expiration)~~ applies to the tax rate, tax levy, or budget of the political subdivision, the maximum amount by which the department may increase the tax rate, tax levy, or budget is the amount originally fixed by the political subdivision, and not the amount that was incorrectly published or omitted in the notice described in IC 5-3-1-2.3(b). ~~(before its expiration)~~. The department of local government finance shall give the political subdivision notification electronically in the manner prescribed by the department of local government finance specifying any revision, reduction, or



1 increase the department proposes in a political subdivision's tax levy
 2 or tax rate. The political subdivision has ten (10) calendar days from
 3 the date the political subdivision receives the notice to provide a
 4 response electronically in the manner prescribed by the department of
 5 local government finance. The response may include budget
 6 reductions, reallocation of levies, a revision in the amount of
 7 miscellaneous revenues, and further review of any other item about
 8 which, in the view of the political subdivision, the department is in
 9 error. The department of local government finance shall consider the
 10 adjustments as specified in the political subdivision's response if the
 11 response is provided as required by this subsection and shall deliver a
 12 final decision to the political subdivision.

13 (e) The department of local government finance may not approve a
 14 levy for lease payments by a city, town, county, library, or school
 15 corporation if the lease payments are payable to a building corporation
 16 for use by the building corporation for debt service on bonds and if:

- 17 (1) no bonds of the building corporation are outstanding; or
- 18 (2) the building corporation has enough legally available funds on
 19 hand to redeem all outstanding bonds payable from the particular
 20 lease rental levy requested.

21 (f) The department of local government finance shall certify its
 22 action to:

- 23 (1) the county auditor;
- 24 (2) the political subdivision if the department acts pursuant to an
 25 appeal initiated by the political subdivision;
- 26 (3) the taxpayer that initiated an appeal under section 13 of this
 27 chapter, or, if the appeal was initiated by multiple taxpayers, the
 28 first ten (10) taxpayers whose names appear on the statement filed
 29 to initiate the appeal; and
- 30 (4) a taxpayer that owns property that represents at least ten
 31 percent (10%) of the taxable assessed valuation in the political
 32 subdivision.

33 (g) The following may petition for judicial review of the final
 34 determination of the department of local government finance under
 35 subsection (f):

- 36 (1) If the department acts under an appeal initiated by a political
 37 subdivision, the political subdivision.
- 38 (2) If the department:
- 39 (A) acts under an appeal initiated by one (1) or more taxpayers
 40 under section 13 of this chapter; or
- 41 (B) fails to act on the appeal before the department certifies its
 42 action under subsection (f);



1 a taxpayer who signed the statement filed to initiate the appeal.

2 (3) If the department acts under an appeal initiated by the county
3 auditor under section 14 of this chapter, the county auditor.

4 (4) A taxpayer that owns property that represents at least ten
5 percent (10%) of the taxable assessed valuation in the political
6 subdivision.

7 The petition must be filed in the tax court not more than forty-five (45)
8 days after the department certifies its action under subsection (f).

9 (h) The department of local government finance is expressly
10 directed to complete the duties assigned to it under this section not later
11 than February 15 of each year for taxes to be collected during that year.

12 (i) Subject to the provisions of all applicable statutes, the
13 department of local government finance shall, unless the department
14 finds extenuating circumstances, increase a political subdivision's tax
15 levy to an amount that exceeds the amount originally advertised or
16 adopted by the political subdivision if:

17 (1) the increase is requested in writing by the officers of the
18 political subdivision;

19 (2) the requested increase is published on the department's
20 advertising Internet web site and ~~(before January 1, 2015)~~ is
21 published by the political subdivision according to a notice
22 provided by the department; and

23 (3) notice is given to the county fiscal body of the error and the
24 department's correction.

25 If the department increases a levy beyond what was advertised or
26 adopted under this subsection, it shall, unless the department finds
27 extenuating circumstances, reduce the certified levy affected below the
28 maximum allowable levy by the lesser of five percent (5%) of the
29 difference between the advertised or adopted levy and the increased
30 levy, or one hundred thousand dollars (\$100,000).

31 (j) The department of local government finance shall annually
32 review the budget by fund of each school corporation not later than
33 April 1. The department of local government finance shall give the
34 school corporation written notification specifying any revision,
35 reduction, or increase the department proposes in the school
36 corporation's budget by fund. A public hearing is not required in
37 connection with this review of the budget.

38 SECTION 5. IC 36-4-7-6, AS AMENDED BY P.L.183-2014,
39 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JANUARY 1, 2015 (RETROACTIVE)]: Sec. 6. Before the publication
41 ~~(before January 1, 2015)~~ and before the submission of notice of budget
42 estimates required by IC 6-1.1-17-3, each city shall formulate a budget



1 estimate for the ensuing budget year in the following manner:

2 (1) Each department head shall prepare for the department head's
3 department an estimate of the amount of money required for the
4 ensuing budget year, stating in detail each category and item of
5 expenditure the department head anticipates.

6 (2) The city fiscal officer shall prepare an itemized estimate of
7 revenues available for the ensuing budget year, and shall prepare
8 an itemized estimate of expenditures for other purposes above the
9 money proposed to be used by the departments.

10 (3) The city executive shall meet with the department heads and
11 the fiscal officer to review and revise their various estimates.

12 (4) After the executive's review and revision, the fiscal officer
13 shall prepare for the executive a report of the estimated
14 department budgets, miscellaneous expenses, and revenues
15 necessary or available to finance the estimates.

16 SECTION 6. IC 36-5-3-3, AS AMENDED BY P.L.183-2014,
17 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JANUARY 1, 2015 (RETROACTIVE)]: Sec. 3. Before the publication
19 ~~(before January 1, 2015)~~ and before the submission of notice of budget
20 estimates required by IC 6-1.1-17-3, each town shall formulate a
21 budget estimate for the ensuing budget year in the following manner,
22 unless it provides by ordinance for a different manner:

23 (1) Each department head shall prepare for the department head's
24 department an estimate of the amount of money required for the
25 ensuing budget year, stating in detail each category and item of
26 expenditure the department head anticipates.

27 (2) The town fiscal officer shall prepare an itemized estimate of
28 revenues available for the ensuing budget year, and shall prepare
29 an itemized estimate of expenditures for other purposes above the
30 money proposed to be used by the departments.

31 (3) The town executive shall meet with the department heads and
32 the fiscal officer to review and revise their various estimates.

33 (4) After the executive's review and revision, the fiscal officer
34 shall prepare for the executive a report of the estimated
35 department budgets, miscellaneous expenses, and revenues
36 necessary or available to finance the estimates.

37 SECTION 7. **An emergency is declared for this act.**

